

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

LAMAR OCI NORTH, LLC,

Case No. 1:24-cv-00756-PLM-PJG

Plaintiff,

v.

Hon. Paul L. Maloney
Magistrate Judge Phillip J. Green

CONSENT JUDGMENT

CHARTER TOWNSHIP OF EAST BAY,

Defendant.

CONSENT JUDGMENT

At a session of the U.S. District Court held in the
Western District of Michigan

on June 12, 2025

PRESENT: Hon. Paul L. Maloney
U.S. District Court Judge

This matter comes before the Court upon the complaint of plaintiff Lamar OCI North, LLC against defendant Charter Township of East Bay. Defendant regulates billboards and other signs through its zoning ordinance. Plaintiff filed this lawsuit against defendant after defendant denied plaintiff's applications for a permit to erect a digital billboard within the Charter Township of East Bay. Plaintiff's complaint alleges that defendant's zoning ordinance—both facially and as-applied to plaintiff—is unconstitutional under the First and Fourteenth Amendments to the U.S. Constitution and seeks an award of damages and attorney fees under 42 U.S.C. §§ 1983 and 1988. Defendant has filed an answer in response to plaintiff's complaint where it has denied all of plaintiff's claims and asserted several affirmative defenses.

The Court is advised that the parties have reached a settlement to resolve their dispute to avoid the risks of trial and, accordingly, collectively ask the Court to enter this Consent Judgment to memorialize their agreement. The Court has reviewed the terms of the parties' settlement as contained in this Consent Judgment and concludes that its entry is appropriate. NOW, THEREFORE, AND HAVING

OTHERWISE BEEN FULLY ADVISED ON THE PREMISES;

IT IS HEREBY ORDERED that plaintiff will submit a complete “Plan Set”¹ and, after receipt, defendant will issue within fourteen days all permits or other approvals necessary for plaintiff’s erection of a billboard at the location known as 1753 US-31 in East Bay, Michigan described in plaintiff’s April 2024 Sign Application attached as Exhibit A to the Consent Judgment. Lamar shall remove and replace its current billboard at 1710 US-31 in East Bay and replace it with a new billboard at 1753 US-31 in East Bay (the “New Billboard”). The west facing side of the New Billboard shall be static and the other side shall be digital. The live area of the New Billboard, excluding the cabinet, shall not exceed 136 square feet (approximately 137.33 feet with the bevel). The digital face of the New Billboard shall change copy once every 30 seconds or longer. The digital face of the New Billboard shall employ technology making the illumination of the digital side of the New Billboard primarily oriented to traffic.

Plaintiff shall be responsible for all permitting fees and complete all reasonably necessary applications (*e.g.*, electrical or construction permits), but shall not be required to apply for any variances to the zoning board of appeals or

¹ “Plan Set” means: (1) Complete dimensions of the New Billboard, including height and its supports/base for ground signs; (2) Method of illumination showing manufacturer cut sheets with design of all proposed fixtures and lighting levels on all paved surfaces and property lines; (3) Method of mounting; (4) Setbacks to property lines and other structures on the site, where applicable; and (5) Any existing or proposed easements related to the New Billboard, if any.

any further sort of land use approval. The New Billboard will comply with all Zoning Ordinance requirements except for the exceptions expressly stated in this Agreement. East Bay is not aware of any current zoning issues with the New Billboard that are not specifically addressed by this Consent Judgment.

Lamar shall pay East Bay \$13,978.00 to reimburse East Bay for its attorney fees in connection with the previous ZBA appeal.

IT IS FINALLY ORDERED that this consent judgment reflects the entire agreement of compromise of the parties as it relates to the issues raised in plaintiff's complaint or defendant's answer as it relates to plaintiff's pending sign application for 1753 US-31 only. To that end, The Parties shall fully release each other and their Trustees, employees, managers, members, and attorneys from any and all claims, losses, liabilities, and damages of any type or nature, whether in tort, contract, or by statute, common law, or equity as a result of any act, omission, transaction, contract, statement, representation, event, or occurrence that relates in any manner to the placement of a new billboard at 1753 US-31 in East Bay, including, but not limited to, all claims that have been made or could have been made in this litigation.

This Consent Judgment resolves the last pending claim and closes the case.

IT IS SO ORDERED.

/s/ Paul L. Maloney

United States District Judge

Agreed for entry:

BODMAN PLC

/S/ J. Adam Behrendt (P58607)
201 W. Big Beaver Road, Suite 500
Troy, MI 48084
(248) 743-6000
jbehrendt@bodmanlaw.com
Attorney for Lamar OCI North, LLC.

SMITH & JOHNSON, ATTORNEYS

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Traverse City, MI 49685
(231) 946-0700
bwierda@smith-johnsonc.com
Attorneys for Defendant Charter Township of Garfield

Exhibit A

APPLICATION TO ERECT/MAINTAIN A DIGITAL BILLBOARD ADJACENT TO STATE

TRUNKLINE

This information is required by authority of MCL 252.301, et. seq. in order to obtain a digital permit.All permit fees are **non** refundableLocation Approved
DPA0004449

IHAP Digital BB Application No.

| APPLICANT DATA | | | | | |
|---|-------------|-------------------|-------------------------------|--|-------------------|
| SIGN OWNER LAMAR OCI NORTH CORPORATION | | | ACCT.# 15 | LAND OWNER MITTEN PROPERTY MANAGEMENT | |
| MAILING ADDRESS [REDACTED] | | | MAILING ADDRESS [REDACTED] | | |
| CITY Traverse City | STATE MI | ZIP CODE 49684 | CITY SPRING LAKE | STATE MI | ZIP CODE 49456 |
| TELEPHONE NO. [REDACTED] | | | TELEPHONE NO. [REDACTED] | | |
| EMAIL ADDRESS [REDACTED] | | | EMAIL ADDRESS [REDACTED] | | |

1. Pursuant to the provisions of MCL 252.302, et. seq., application is hereby made for a digital billboard permit.The date sign structure was erected (Month) Dec (Day) 25 (Year) 1988
(**Attach issued building permit from local municipality**)2. If Sign is an existing **static** nonstandard sign being converted to digital, list three interim permit being surrendered:3. ANNUAL PERMIT: 33279 (list permit number for existing sign).4. LOCATION: Route: US-31 Latitude: 44.74549 Longitude: -85.54134

If visible from second highway, please list that Route: Direction of Travel (NB,SB,EB,WB)

5. ZONED: Other, according to the zoning ordinance of the above municipality or county (**Include most current zoning map with the application**).

If within 1 mile of the local municipality complete a ; or beyond 1 mile of the local municipality, or unzoned complete b:

a. The location is within one mile of _____, an **incorporated** municipality.b. The location is within 800 feet of a **structure devoted to commercial or industrial purposes**, on the same side of the road.

The commercial or industrial purpose is

6. SPACING:

a. The sign being converted to digital or existing digital is spaced at least 1,750 feet from another permitted digital sign facing the same direction of oncoming traffic on either side of the highway.

b. The existing digital billboard is a Nonstandard sign as defined in PA 106 of 1972 and meets the 1750 feet spacing.

7. SIZE OF SIGN INCLUDING BODER AND TRIM : Width 21.00 ft. x Height 10.00 ft. = 210.00 sq. ft.

8. SIGN CONFIGURATION:

 1 Panel 2-Panel back to back 2-Panel V-shapeCERTIFICATION: I affirm, under penalty of law, that the information given in this application is accurate and correct and that the sign or sign structure complies with MCL 252.301, et. seq., as amended. I hereby certify that I have secured the necessary authorization or permission from those who have an interest in the sign location to erect and maintain the sign described in this application. I have read, I accept and I will comply with all permit conditions.SIGN OWNER OR AUTHORIZED AGENT - SIGNATURE
LAMAR OCI NORTH CORPORATIONDATE
04/09/2024

APPLICATION TO ERECT/MAINTAIN A DIGITAL BILLBOARD ADJACENT TO STATE

TRUNKLINE

This information is required by authority of MCL 252.301, et. seq. in order to obtain a digital permit.All permit fees are **non** refundableLocation Approved
DPA0004448

IHAP Digital BB Application No.

| APPLICANT DATA | | | | | |
|---|-------------|-------------------|--|-------------|-------------------|
| SIGN OWNER LAMAR OCI NORTH CORPORATION | | ACCT.# 15 | LAND OWNER MITTEN PROPERTY MANAGEMENT | | |
| MAILING ADDRESS [REDACTED] | | | MAILING ADDRESS 1 [REDACTED] | | |
| CITY Traverse City | STATE MI | ZIP CODE 49684 | CITY SPRING LAKE | STATE MI | ZIP CODE 49456 |
| TELEPHONE NO. [REDACTED] | | | TELEPHONE NO. [REDACTED] | | |
| EMAIL ADDRESS [REDACTED] | | | EMAIL ADDRESS [REDACTED] | | |

1. Pursuant to the provisions of MCL 252.302, et. seq., application is hereby made for a digital billboard permit.The date sign structure was erected (Month) xeb (Day) 23 (Year) 1978
(**Attach issued building permit from local municipality**)2. If Sign is an existing **static** nonstandard sign being converted to digital, list three interim permit being surrendered3. ANNBAL PERMIT 33278 (list permit number for existing sign).4. LOCATION URoute UBS-31 Latitude 44.74549 Longitude 85.54134If visible from second highway, please list that Route UMBNSON AVE Direction of Travel WZ (NZ,SZ,EZ,WZ)5. zONEDU Other, according to the zoning ordinance of the above municipality or county (**Include most current zoning map with the application**).

If within 1 mile of the local municipality complete a ; or beyond 1 mile of the local municipality, or unzoned complete b:

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8. SIGN CONxIGBRATIONU

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LAMAR OCI NORTH CORPORATIONDATE
04/09/2024